

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
ANDERSON/ GREENWOOD DIVISION

Willie A. Sullivan, #275021,)	
)	C/A No.: 8:07-3003-GRA-BHH
Plaintiff,)	
)	
v.)	ORDER
)	(Written Opinion)
SCDC, Director of SCDC Jon Ozmint,)	
and Warden Tim Riley)	
)	
Defendants.)	
_____)	

This matter comes before the Court for review of the magistrate's Report and Recommendation filed on October 24, 2007 and made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02(B)(2)(d), D.S.C. Plaintiff filed this action on August 28, 2007, pursuant to 42 U.S.C. § 1983. The magistrate recommends dismissing Defendant SCDC as a party without service of process. For the reasons stated herein, the Court adopts the magistrate's Report and Recommendation.

Standard of Review

Plaintiff brings this claim *pro se*. This Court is required to construe *pro se* pleadings liberally. Such pleadings are held to a less stringent standard than those drafted by attorneys. *Gordon v. Leeke*, 574 F.2d 1147, 1151 (4th Cir. 1978). This Court is charged with liberally construing a pleading filed by a *pro se* litigant to allow

for the development of a potentially meritorious claim. *Boag v. MacDougall*, 454 U.S. 364, 365 (1982).

The magistrate makes only a recommendation to the Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Matthews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and this Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). This Court may also “receive further evidence or recommit the matter to the magistrate with instructions.” *Id.*

Objections

In order for objections to be considered by a United States District Judge, the objections must be timely filed and must specifically identify the portions of the Report and Recommendation to which the party objects and the basis for the objections. FED. R. CIV. P. 72(b); see *United States v. Schronce*, 727 F.2d 91,94 n.4 (4th Cir. 1984); *Wright v. Collins*, 766 F.2d 841, 845-47 nn.1-3 (4th Cir. 1985). “Courts have . . . held *de novo* review to be unnecessary in . . . situations when a party makes general and conclusory objections that do not direct the court to a specific error in the magistrate’s proposed findings and recommendation.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Furthermore, in the absence of specific objections to the Report and Recommendation, this Court is not required to give any explanation for

adopting the recommendation. *Camby v. Davis*, 718 F.2d 198 (4th Cir. 1983). Plaintiff timely filed objections to the Report and Recommendation on November 13, 2007.

The plaintiff objects to the magistrate's assertion that the South Carolina Department of Corrections ("SCDC") is the lead defendant in the case. This objection has no merit. The magistrate correctly stated that SCDC is entitled to qualified immunity and therefore did not authorize service of process for SCDC. The plaintiff listed SCDC as the first defendant thus the magistrate's characterization as the lead defendant. This has no bearing on the recommendation of the magistrate; he committed no error. The plaintiff has not directed the court to an error in the magistrate's Report and Recommendation that warrants *de novo* review.

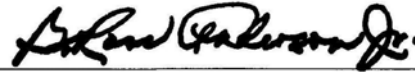
After a review of the magistrate's Report and Recommendation and the objection thereto, this Court finds the report is based upon the proper law. Accordingly, the Report and Recommendation is accepted and adopted in its entirety.

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Conclusion

IT THEREFORE ORDERED that the defendant SCDC be DISMISSED without issuance and service of process.

IT IS SO ORDERED.



G. ROSS ANDERSON, JR.
UNITED STATES DISTRICT JUDGE

October 2, 2008
Anderson, South Carolina

NOTICE OF RIGHT TO APPEAL

Plaintiff has the right to appeal this Order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure. Failure to meet this deadline, as modified by Rule 4 of the Federal Rules of Appellate Procedure, will waive the right to appeal.